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COMPLETED

AGENCIES EXCLUDED FROM THE FEDERAL MERIT PAY SYSTEM

ORIGINAL

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON AGENCIES AND UNITS OF AGENCIES EXCLUDED FROM THE FEDERAL MERIT PAY SYSTEM, PURSUANT TO 5 U.S.C. 5401(b)(2)(B)

SEPTEMBER 9, 1981.—Message and accompanying papers referred to the Committee on Post Office and Civil Service and ordered to be printed

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TO THE CONGRESS OF THE UNITED STATES:

Supervisors and management officials in GS-13, 14, and 15 positions throughout the Federal Government will be converted to merit pay this October as required by Chapter 54, Title 5, U.S. Code, unless otherwise excluded by law.

Upon proper applications from the heads of affected agencies and upon the recommendation of the Director of the Office of Personnel Management, I have, pursuant to 5 U.S.C. § 5401(b)(2)(B), excluded 44 agencies and units of agencies from coverage under the Merit Pay System on account of size and efficiency, emergency conditions, and comity with the Legislative and Judicial branches.

Attached is my report describing the agency or unit to be excluded and the reasons therefor.

Ronald Reagan

THE WHITE HOUSE,

September 1, 1981.

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REPORT OF THE PRESIDENT TO CONGRESS
ON AGENCIES AND UNITS OF AGENCIES
EXCLUDED FROM THE FEDERAL MERIT PAY SYSTEM

I have excluded 44 agencies and units of agencies from coverage under the Federal Merit Pay System. Forty of these agencies and units are excluded because of their small size; two are excluded because of emergency conditions; and two were excluded by President Carter because they are ouside the Executive Branch, although President Carter never reported his exclusions to Congress.

As part of the implementation of the Civil Service Reform Act of 1978, supervisors and management officials in GS-13, 14, and 15 positions throughout the Federal Government will be placed under merit pay this October as required by Chapter 54, Title 5, United States Code. As an exception to this requirement, 5 U.S.C. § 5401(b)(2) provides that the President may exclude an agency or a unit of an agency from merit pay as follows:

> "(A) Upon application under subparagraph (C) of this paragraph, the President may, in writing, exclude an agency or any unit of an agency from the application of this chapter if the President considers such exclusion to be required as a result of conditions arising from--
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> "(i) the recent establishment of the agency or unit, or the implementation of a new program,
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> "(ii) an emergency situation, or
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> "(iii) any other situation or circumstance.
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> "(B) Any exclusion under this paragraph shall not take effect earlier than 30 calendar days after the President transmits to each House of the Congress a report describing the agency or unit to be excluded and the reasons therefor.

"(C) An application for exclusion under this paragraph of an agency or any unit of an agency shall be filed by the head of the agency with the Office of Personnel Management, and shall set forth reasons why the agency or unit should be excluded from this chapter. The Office shall review the application and reasons, undertake such other review as it considers appropriate to determine whether the agency or unit should be excluded from the coverage of this chapter, and upon completion of its review, recommend to the President whether the agency or unit should be so excluded.

"(D) Any agency or unit which is excluded pursuant to this paragraph shall, insofar as practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

"(E) The Office shall periodically review any exclusion from coverage and may at any time recommend to the President that an exclusion under this paragraph be revoked. The President may at any time revoke, in writing, any exclusion under this paragraph."

The heads of 44 agencies and units of agencies have applied for exclusion. The Director of the Office of Personnel Management has reviewed their applications and has found them to be in proper form and of merit. Upon his recommendation, I have reviewed these cases and I have concluded that the exclusions requested should be granted.

1. Exclusions Because of Small Size

All but one of the entities recommended for exclusion on account of small size are managed independently of any other organization and yet each employs fewer than ten persons who meet the criteria for merit pay coverage. Organizations with extremely small merit pay populations

would have to devote an inordinate proportion of resources to implement merit pay systems, and the resultant pools of merit pay funds are likely to be too small to maintain equitable merit pay adjustments.

The problem with very small pools lies in their potential insufficiency to support merit pay systems that meet the intent of Congress; that is, to fund adjustments to salaries of covered employees which appropriately reflect their overall performance. Because the size of the total pool of funds available for merit pay increases is fixed by the population rather than the performance ratings, the size of an individual's merit pay adjustment is affected to some degree by the overall performance of the group as well as by one's own performance. Normally, this effect will average out, but with very small groups another individual's performance has nearly as much impact on one's increase as one's own, and merit pay cannot be confidently administered.

The agencies and independently managed units of agencies faced with these problems and which have requested exclusion are:

Agencies	Number of Potential Merit Pay Employees
Administrative Conference of the United States	1
Advisory Commission on Intergovernmental Relations	1
Advisory Council on Historic Preservation	9
American Battle Monuments Commission	1
Architectural and Transportation Barriers Compliance Board	5
Commission of Fine Arts	1

Committee for Purchase From the Blind and Other Severely Handicapped	3
Delaware River Basin Commission	1
Federal Mine Safety and Health Review Commission	8
Foreign Claims Settlement Commission of the United States	1
Inter-American Foundation	8
Japan-United States Friendship Commission	1
Marine Mammal Commission	3
National Commission for Employment Policy	2
National Commission on Libraries and Information Science	4
President's Commission on Executive Exchange	3
President's Commission for the Study of Ethical Problems in Medicine and Biomedical Behavioral Research	3
Susquehanna River Basin Commission	1
United States Arms Control and Disarmament Agency	7
United States Soldiers' and Airmen's Home	6
Water Resources Council	5
Woodrow Wilson International Center for Scholars	6

Units of Agencies

Community Services Administration	
National Advisory Council on Economic Opportunity	1
Department of Defense	
Armed Services Board of Contract Appeals	2
Uniformed Services University of the Health Sciences	6
United States Court of Military Appeals	3
Department of the Interior	
Office of Hearings and Appeals	6
High Court of American Samoa	3
High Court of the Trust Territory of the Pacific Islands	2
Indian Arts and Crafts Board	3
Bureau of Indian Affairs	
Red Lake Agency	1
San Carlos Irrigation Project	1
Seattle Liaison Office	1
Interstate Commerce Commission	
Employee Review Boards	6
Suspension Board	2
Special Permission Board	2
Executive Office of the President	
Council of Economic Advisers	1
Council on Environmental Quality	1
National Security Council	1
Office of Science and Technology Policy	1

2. Exclusions Because of Emergency Conditions

a. The Near East Project Office of the Army Corps of Engineers is constructing two air bases in Israel so that the terms of the Peace Agreement between Israel and Egypt can be met. This activity requires NEPO employees to work at least 10 hours per day, 6 days per week. As soon as the project is completed in April, 1982, the Office will be abolished. Because of the emergency pace already required at the Office, it is possible that the administration of merit pay might serve to detract from, rather than increase, productivity.

b. The Federal Aviation Administration of the Department of Transportation has requested exclusion from merit pay for one year under the emergency provisions of 5 U.S.C. § 5401(b)(2) because of conditions created by the recent Air Traffic Controllers' strike. The FAA states that the efforts to maintain a safe and orderly continuation of the nation's air traffic have placed extraordinary and unprecedented demands on the FAA workforce. The extreme emergency situation created by the strike unavoidably compromises FAA's ability to effectively implement the new merit pay system.

3. Exclusions of Non-Executive Agencies

The Library of Congress is an entity in the Legislative branch. The Administrative Office of the United States Courts is an entity in the Judicial branch. Their respective heads have requested exclusions on grounds of size, efficiency, and comity. President Carter approved these exclusions, but failed to perfect them.

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